

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
BLUEFIELD DIVISION

CURTIS E. DAVIS, et al.)	
)	Case No. 1:16-cv-2755
Plaintiffs,)	
)	
v.)	
)	
LARRY AUSTIN, et al.)	
)	
Defendants.)	
_____)	

ORDER

Upon consideration of the United States' motion to compel, and any response thereto, and for good cause shown, it is

ORDERED that the United States' motion for sanctions is GRANTED; and further

ORDERED that, upon consideration of: (1) Larry Austin's acting in bad faith by failing to participate in discovery; (2) the material prejudice his noncompliance caused to the United States by his failure to admit facts asserted in his answer, as well as his failure to produce to the United States the evidence requested in discovery; (3) the need for deterrence of a party failing to comply with a Court order compelling discovery and failing to attend a properly noticed deposition; and (4) the effectiveness of less drastic sanctions, which were ineffective in compelling Austin to respond to the United States' Second Request for Interrogatories and Production, Larry Austin is defaulted and may no longer participate in this case; Mutual Federal Savings & Loan Ass'n v. Richards & Associates, Inc., 872 F.2d 88 (4th Cir. 1989) (citing Wilson v. Volkswagen of Am., Inc., 561 F.2d 503-06 (4th Cir. 1977)); and further

ORDERED that the United States is awarded JUDGMENT in its favor against Larry Austin in the amount of \$1,192,223.62 as of April 18, 2016, for income tax liabilities associated with tax year 2005, as well as § 6651(f) penalties associated with tax years 2000-2005, plus statutory interest pursuant to 28 U.S.C. § 1961(c) and 26 U.S.C. § 6621(a)(2) accruing after that date until the amount is paid in full; and further

ORDERED that Larry Austin shall pay to the United States \$540.48 for its costs and attorney's fees associated with the filing of its motion for sanctions.

SO ORDERED.

Date: February 15, 2017

A handwritten signature in blue ink, appearing to read "Omar J. Aboulhosn", is written above a horizontal line.

The Honorable Omar J. Aboulhosn
United States Magistrate Judge